

AT A PUBLIC HEARING AND REGULAR MEETING OF THE HAMPTON PLANNING COMMISSION HELD IN THE COUNCIL CHAMBERS ROOM, 8TH FLOOR, CITY HALL, HAMPTON, VIRGINIA, ON APRIL 12, 2004 AT 3:30 P.M.

PRESENT: Chairman Harold O. Johns; Vice-Chairman Timothy B. Smith; and Commissioners Perry T. Pilgrim, Katherine K. Glass, George E. Wallace, and Randy Gilliland

ABSENT: Ralph A. Heath, III

ITEM I. ROLL CALL

A call of the roll noted Commissioner Heath as being absent.

ITEM II. MINUTES

There being no additions or corrections, a motion was made by Commissioner Katherine K. Glass and seconded by Commissioner Randy Gilliland, to approve the minutes of the March 8, 2004 Planning Commission meeting. A roll call vote on the motion resulted as follows:

AYES:	Smith, Pilgrim, Glass, Wallace, Gilliland, Johns
NAYS:	None
ABST:	None
ABSENT:	Heath

ITEM III. STAFF REPORTS

A. Youth Planner Report

Mr. Jacob Berg, Youth Planner, stated he has worked along with Ms. Tundidor to prepare for important events with the Youth Commission and the City of Hampton. During the month of March, most of their time was spent preparing for the City Council's Candidates Forum hosted by the Youth Commission which took place on March 29th. The forum was meant to allow young people to see what City Council and mayoral candidates thought about issues that affected young people directly. They worked diligently to construct a successful format for the forum, which was not an easy task. However, through the help of both Planning staff and members of the Coalition for Youth, they were able to create a working structure. The format allowed all the present candidates to have a chance at answering questions prepared by the Youth Planners and presented by the moderator, Keshia Ashe, Chairman of the Hampton Youth Commission. Questions ranged from dealing with the safety of young people to scholarship opportunities from the city. Time was also given for the candidates to field questions selected from the audience, which allowed young people in attendance to ask what they really cared about. Approximately 120 people showed up to hear the candidates' views on youth. A booth was also set up with voter registration forms, allowing young people of age to register to vote conveniently. Afterwards, both young people and adults seemed extremely pleased with the way the forum was conducted

and the turn out. He stated several of the candidates even approached them and commented on the excellent way the forum was run, and that it was the best one they had ever attended. The Youth Planners also worked with the Commissioners to prepare formal presentations supporting the creation of the Hampton Teen Center. These presentations were given at the Capital Expenditure Committee meetings. These meetings were designed to help advise the Committee on the public's view of how money should be spent in the city. Members of the Youth Commission, Superintendent Advisory Group, and Principal Advisory Groups worked together to give their presentations at the two public hearing meetings, while other young people, including the Youth Planners held a discussion with several committee members about the concerns of students in schools at a Youth-Only meeting. Overall, the impact made by the well prepared student presentations seemed to have a positive effect on the committee members, and the discussion between young people and adults of the youth meeting were invaluable. Mr. Berg thanked the Commission for their time, and entertained questions.

Commissioner Gilliland stated he heard positive comments regarding the Candidate's Forum, and that it was the most well prepared, well run, substantive forum that any candidate has ever been to. He asked if the procedural process could be written and shared with the civic groups who do these types of forums. He stated there is nothing applicable about knowing how to run a candidate's forum and that the Youth Planners and Youth Commission did a very good job and there are a lot of people in the city that could benefit from the process.

Commissioner Glass stated as far as a "how to" guide for the committee that organized the forum, the Neighborhood Office could facilitate getting the contacts persons for the groups which would be worthwhile. She has attended some candidate's forum that was not well organized.

ITEM IV. PUBLIC HEARING

Mr. O'Neill read the public hearing item notice on the agenda as advertised in the Daily Press on March 29, 2004 and April 5, 2004.

- A. **Rezoning Application No. 1175** by Moore & Sarfan Associates to rezone 9.46± acres located generally at the terminus of Benthall Road and adjacent to the Colonial Acres subdivision, from One Family Residence District (R-13) to One Family Residence District (R-9) to develop a single family subdivision of up to 26 lots. The 2010 Comprehensive Plan recommends low density residential uses for this area. R-13 allows single family uses at a density of 2.5 to 3.5 units per acre. R-9 allows single family uses at a density of 5.0 to 6.5 units per acre. *This application was deferred from the March 8, 2004 meeting.*

Mr. Mayer Sarfan, applicant, stated he appeared before the Commission at the last meeting, and due to a technicality is why he is before the Commission today. He stated at that time, he was requested to present his final plan with a rezoning from R-13 to R-11 for 23 lots. The homes that will be developed will be larger than R-13. R-11 requires a minimum dwelling size of 1,700 square feet, but he is proposing 2,200 square foot dwellings with a 400 square foot garage. He will be able to develop the

property if the housing market stays as it is. He believes it would be successful for the City of Hampton, and that the residents of Colonial Acres do not have anything to worry about. The objection which the residents have raised is regarding water pressure, which he believes needs to be unclogged and water pressure restored. He stated the streets are no worse than half the streets in older subdivisions in the City of Hampton. He is not stating that they do not have to be widened, but streets constructed in the City of Hampton before 1950 are in the same shape. He does not believe that 23 lots in the proposed area would have a negative impact on the neighborhood. He asked the Planning Commission to review the report and approve the rezoning with the changed proffers.

Mr. Haughton presented the staff report, a copy of which is attached hereto and made a part hereof. He noted that as Mr. Sarfan mentioned the 23 lots, staff has had concerns regarding the proffer due to the changes in the Chesapeake Preservation Act. He stated some of the lots, at least lot 1 and lot 2, would be impacted by the new regulations. All new lots created would have to be built outside of the buffer area, which means the lots could be less than 23. He emphasized that what the Commission is reviewing today is the land use change. The subdivision is a separate action and would occur after the land use change is in place. In other words, the land use has to be zoned R-11 before the subdivision can be approved. He stated Planning staff believes that the application can be approved under the R-11 zone.

Mr. Rusty Kellam, 11 Stirrup Court, stated there seems to be some confusion regarding the application. He stated in identifying the property as R-13 to R-9, there is an issue, even though the request is now being considered for R-11. He stated what is in writing is accurate, which does indicate that the request is R-9 as compared to R-13, which needs to be addressed. He stated this is his third occasion before the Commission to discuss this issue, and the Commission has been made aware of the parties, individuals, and their interest in how this is being taken care of. One of the issues he brought up at last month's meeting was regarding access between Hunlac, Benthall and Rogers Avenue and the impact with vehicles. He stated the area does not have curbs and gutters, but ditches, and with the exception of vehicles in their driveway, people have to park on the road. This means that limited access going into the properties would be greatly magnified and you have to circumvent in and out the neighborhood to be able to access into the proposed area. Because of limited access, there is only thirteen feet if vehicles were parked side by side or across the road from each other. He stated the biggest issue is that Mayer Sarfan has approval for 16 lots. He understands that some people prefer that the property remain undeveloped, but as a whole, the residents realize that Mr. Sarfan has the right to develop the land and feel strongly that 16 lots is sufficient for the area with the R-13 zoning designation. He stated these lots to being considered for R-11 will be a cluster of homes with limited space, and drainage problems. He asked the members of the audience to raise their hands that are opposed to the rezoning. He asked the Commission to keep the zoning designation at R-13.

Mr. Terry O'Neill, Secretary to the Commission, stated for clarification regarding zoning designations for the audience, any application that comes before the Planning Commission and City Council, the regulations state that changes can be made to an

application even with a posted advertisement, as long as the use is considered less dense than the advertisement.

Mr. Bill Sirine, 63 Chowning Drive, stated his concern is regarding wetlands. He stated the Commission has before them a modified plan from the last plan that appeared before the Commission in March. He stated Mr. Savage, an engineer, has identified lots 1 and 2 that require a variance to the Resource Protection Area (RPA) of fifty feet. This is something that in the past, could be granted on pre-existing lots or lots under consideration to be created. When he appeared before the Commission in March, only one lot was identified under the RPA. In reading the Virginia Administrative Code which went into effect in March 2002, it gave the jurisdictions in the Commonwealth eighteen months to comply to those regulations. The deadline for compliance for all municipalities was December 31, 2003. He also understands the City of Hampton has yet to adopt regulations in compliance with the Chesapeake Bay Preservation Act, and has promised to do so as of May 15th. He stated assuming the Commission does not want to violate the Commonwealth of Virginia Administrative Code in regards to buffers, he suggested for the benefit of all, that the rezoning be reviewed by the Chesapeake Bay Review Committee, and let them make a determination before the Commission acts on the zoning issue regarding whether the two lots can be built on. He believes the zoning should be deferred, and requested that the Commission send the plan to the Chesapeake Bay Local Assistance Board (CBLAD), and let them act on it and then it would be appropriate for the Commission and Council to act.

Mr. O'Neill responded that most of what Mr. Sirine has asked the Commission to do has already been put into place. He stated the Commission has a letter before them as documentation which indicates that any development proposal requires the City of Hampton's review or any formal review process while the Planning Commission and City Council are considering the new Chesapeake Bay requirements. Staff cannot predispose what Planning Commission or City Council may decide to do with the regulations, but anything that is submitted from this point forward would be reviewed under those new regulations once they have been adopted on second reading by Council. He stated part of Mr. Haughton's presentation emphasized the fact that Planning staff also believe that lots 1 and 2 are in jeopardy and may not be permitted or approved by the Commission under the preliminary subdivision as they are currently configured because of the new regulations.

Mr. Leonard Riley, 48 Chowning Drive, asked the Commission not to down zone the property to R-11. He would love the land to stay wooded, and he has enjoyed 23½ years of woods, but regardless of what happens, he encouraged the Commission to keep the lot s at R-13.

Mr. David Jones, 422 Hunlac Avenue, stated he has attended each meeting regarding this rezoning. He reminded the building officials of their high standards of ethics. He stated if the Commission should vote, there is a conflict of interest. He stated the land should remain at R-13.

Ms. Sharlene Becerra, 435 Benthall Road, stated her concern is access and the problem with driving down the roads in the subject area. She stated water pressure is a problem on Benthall Road. If more houses are run off the main water line of Benthall Road, there will not be any water pressure, especially during the summertime on Saturday afternoons. She has lived in her house for four years, and during the week there is plenty of water pressure, but on the weekend during the summer time when people are using more water, there is less water pressure. She stated Newport News needs to come out on a weekend and check the water pressure. She stated building even six houses at 2,200 square feet is a lot of water usage. She was informed by Newport News Waterworks two years ago that it would be another ten years before they improve the water system. She stated there is enough traffic in the area, and she does not believe any more houses should be built in the subject area.

Ms. Phyllis Bennett, 5 Stirrup Court, stated she has enjoyed attending the Planning Commission meetings and the way the people have handled the issues between each other.

Mr. Haughton stated in regards to the proffered subdivision, this is a concern because of a possibility of the subdivision having a vested right. The subdivision may be in conflict with the proposed Chesapeake Bay regulations.

Mr. O'Neill stated the important thing with the subject proffer to the extent it conveys is that the property is going to be subdivided into R-11 lots which is alright. The important part to note is the lots that have been referenced may have to be reconfigured or eliminated when the preliminary subdivision plan comes before the Commission, under the assumption that those lots would have to comply with the Chesapeake Bay regulations put in place at that time.

In response to a question by Commissioner Pilgrim, Mr. O'Neill stated the 16 lots came from dividing the property with the parameters of the zoning ordinance. It is a long piece of property which is not perfectly squared. It also has a non-tidal wetlands parcel which impacts the property. From the layout of the property, 16 was an approximately number.

In response to a question by Commissioner Pilgrim, Mr. O'Neill concurred that even at R-11, the most lots the applicant can get out of the property is 19 or 20 lots depending on the wetlands issues and how strict the new provisions are adhered to. He stated if the R-11 is approved, the applicant has to prepare a preliminary subdivision plan, and afterwards, they have to prepare a development plan for the subdivision which involves drainage, the Chesapeake Bay Act provisions, etc., which could be less than 23 lots.

Commissioner Pilgrim stated because he is a Real Estate Agent, he had to abstain from the last two votes for this rezoning, and will have to abstain from this vote also. He knows there is a lot of emotion involved in this rezoning, but the bottom line is there is a by-right use of the property which could be done even if an R-13 subdivision was drawn and approved. There are drainage issues which would have to be addressed, but what it comes down to is possibly 2 to 4 houses being eliminated.

Commissioner Glass noted to the audience that this request is not a subdivision approval, but a rezoning, and the Commission has reviewed the proposed request several times, which has its pros and cons. She stated whether it is Mr. Sarfan or someone else who owns the property, there has to be a compromise. There are wetlands and drainage implications, and she understands the residents' concerns and how they enjoy the beautiful wooded property, but not to develop the property is unrealistic.

After discussion, the Commission approved the following resolution:

WHEREAS: The Hampton Planning Commission has before it this day, an application by Moore & Sarfan Associates to rezone 9.46± acres at the terminus of Benthall Road from One Family Residence District (R-13) to One Family Residence District (R-11) to develop a single family subdivision; and

WHEREAS: R-13 allows single-family uses at a density of 2.5-3.5 units per acre and R-11 allows single-family uses at a density of 3.5 to 4.5 units per acre; and

WHEREAS: This is a transitional piece of property located between two developed residential districts, R-13 and R-9 that warrants consideration for an intermediate land use change; and

WHEREAS: The proposal is to construct dwelling units on crawl spaces that are 2,200 square feet heated space plus 400 square feet attached garages that is intended to produce housing values that are higher than the abutting Buckroe Gardens and on parity with the abutting properties in Colonial Acres; and

WHEREAS: New regulations for the Chesapeake Bay Preservation District will likely impact the number of proposed lots and therefore the proffered subdivision cannot be accepted in its submitted form of 23 lots; and

WHEREAS: There was opposition from the public. Concerns were raised about the density of the proposal; increased traffic through the Buckroe Gardens subdivision; drainage; water pressure; widening of existing streets in the vicinity; wetlands concerns; and

WHEREAS: The 2010 Comprehensive Plan recommends low density residential development in this vicinity and that new development be at least as high quality as the adjacent existing development; and

WHEREAS: The proffers offer an acceptable level of quality development under this proposal that are aligned with the City of Hampton's housing goals; and

NOW, THEREFORE, on a motion by Commissioner Katherine Glass and seconded by Commissioner George E. Wallace;

BE IT RESOLVED that the Hampton Planning Commission respectfully recommends to the Honorable Hampton City Council that Rezoning Application No. 1175 be approved with conditions.

A roll call vote on the motion resulted as follows:

AYES:	Smith, Glass, Wallace, Gilliland and Johns
NAYS:	None
ABST:	Pilgrim
ABSENT:	Heath

B. Rezoning Application No. 1176

Mr. O'Neill read the next public hearing item notice.

Rezoning Application No. 1176 by Hampton Redevelopment and Housing Authority to rezone 3.44± acres from Multiple Residence (R-M) to One Family Residence (R-9) for the development of single-family residences. The following parcels are included in the rezoning application: 2210, 2216, 2302 and 2306 Shell Road and the parcel identified as 01L002 00E00022PT.

Mr. Caroline Butler, Chief Planner, stated Mr. Philip Page, applicant representing Hampton Redevelopment and Housing Authority, will give a presentation on the subject rezoning. She stated on behalf of Planning staff and HRHA, she is pleased to bring this application before the Commission. This is an collaborative effort on the parts of HRHA and the City of Hampton to develop a piece of property formerly used as a mobile home park. HRHA purchased the property with the intent for redevelopment which will be a contribution to the neighborhood. Staff is under no obligation to ask for rezoning of the subject property, which is zoned Multiple-Residence District (R-M) which does allow single-family development. By bringing this application forward, it allows staff to further the discontinuance of the R-M category, and to work with HRHA to attach proffers for this development. She introduced Mr. Page.

Mr. Philip Page, Housing Manager, HRHA, stated the property was formerly a mobile home park, acquired by the City. The proposal is to rezone the property from R-M to R-9, but with a higher proffer to build to the higher R-11 standard which is 1700 square foot homes with an attached garage. HRHA has worked with Planning staff, Neighborhood Office and Public Works regarding the treatment of drainage around the ditch near the site. In addition to working with several members of city staff, the proposal was presented to the Greater Wythe Area Team, and members of the Wythe Coalition, as well as the Wythe/Phenix Association. He asked that the Commission favor the rezoning.

Commissioner Pilgrim commented that in reviewing the architectural issues addressed on the infill lots, HRHA has done is a good thing. What this will do for the intersection at that corner with smaller homes will enhance the area, and will be beautifully maintained which will be an anchor.

In response to a question by Chairman Johns, Mr. Page stated the homes will be built on crawl space.

Mr. O'Neill added that having served as staff for the Greater Wythe Area Planning Team, this was one of the properties on the Shell Road corridor that many years ago, Planning team identified as a key parcel that needed to be redeveloped. This is one of those actions that come directly out of the community based plan in which the city has taken a recommendation which has been implemented and staff is happy with the design and size of the homes that will be built a standard above the current homes which will raise the value which is the intent.

Ms. Caroline Butler, Chief Planner, presented the staff report, a copy of which is attached hereto and made a part hereof. She stated Planning staff requests that the Planning Commission recommend to City Council approval of Rezoning Application No. 1176.

Mr. David Barr, 506 Winona Drive, stated the residents that he has spoke with who live on Winona Drive are pleased that houses are going to be built on the subject property for first time home buyers. He wished the Planning Commission GodsPEED.

After discussion, the Commission approved the following resolution:

WHEREAS: The Hampton Redevelopment and Housing Authority has applied to rezone 3.44± vacant acres at the southwest intersection of Shell Road and Celey Street from Multiple Residence District (R-M) to One Family Residence District (R-9) for a single family subdivision; and

WHEREAS: The property is a former mobile home park that was acquired by HRHA for infill single family development; and

WHEREAS: The current R-M zoning allows R-9 houses by right, but HRHA agreed to the rezoning to further the City's objective of deleting the R-M district from the Zoning Ordinance; and

WHEREAS: The 2010 Comprehensive Plan and the Greater Wythe Area Plan recommend low density residential development; and

WHEREAS: Adjacent properties are zoned One Family Residence Districts (R-11 and R-9), R-M, and Neighborhood Commercial District (C-1), and are occupied by single- and multi-family uses and a mobile home park; and

WHEREAS: HRHA has created architectural standards for this subdivision that complement the existing neighborhood, has proffered conditions that ensure larger dwelling units than the R-9 category requires, and has submitted a conceptual site development plan; and

WHEREAS: This proposal has been a collaboration between HRHA and various City departments that can be used for future infill HRHA projects; and

WHEREAS: One citizen spoke in favor of this proposal at the public hearing.

NOW, THEREFORE: On a motion by Commissioner Randy Gilliland and seconded by Commissioner Perry T. Pilgrim,

BE IT RESOLVED that the Hampton Planning Commission does hereby recommend to the Honorable City Council approval of Rezoning Application No. 1176 subject to three (3) conditions.

A roll call vote on the motion resulted as follows:

AYES:	Smith, Pilgrim, Glass, Wallace, Gilliland, Johns
NAYS:	None
ABST:	None
ABSENT:	Heath

C. **Use Permit Application NO. 992**

Mr. O'Neill read the next public hearing item notice.

Use Permit Application No. 992 by Omnipoint Communications to co-locate cellular antennae on an existing tower and construct associated ground equipment at 1930 E. Pembroke Avenue. Communications towers are a permitted use in all districts with an approved Use Permit.

Ms. Deborah Crawley, Consultant for Omnipoint, 947 Ridgemont Road, Charleston, West Virginia, stated she does not have a lot of history with the site, but does have documentation if the Commission has questions. She stated the application is for co-location on an existing tower, and asked that the Planning Commission approve the application

After discussion, the Commission approved the following resolution:

WHEREAS: Omnipoint Communications requests to co-locate an antenna on an existing non-conforming communications tower at 1930 East Pembroke Avenue on property that is zoned Limited Commercial District (C-2); and

WHEREAS: C-2 may permit communications towers and equipment with an approved Use Permit, and this proposal is an opportunity to bring the tower into conformance with current Use Permit standards; and

WHEREAS: As a condition of approval, staff has attached conditions relative to height restrictions, landscape screening, signage and the attainment of proper approvals; and

WHEREAS: No one spoke on this request at the public hearing.

NOW, THEREFORE: On a motion by Commissioner Randy Gilliland and seconded by Commissioner Katherine K. Glass,

BE IT RESOLVED that the Hampton Planning Commission does recommend to the Honorable City Council approval of Use Permit No. 992, subject to four (4) conditions.

A roll call vote on the motion resulted as follows:

AYES: Smith, Pilgrim, Glass, Wallace, Gilliland, Johns

NAYS: None

ABST: None

ABSENT: Heath

D. **Conditional Privilege No. 74**

Mr. O'Neill read the next public hearing item notice.

Conditional Privilege No. 74 by Carlyle Bland to amend the conditions that governs live entertainment in connection with Marker 20 Restaurant, located at 21 East Queens Way.

In response to a question by Commissioner Wallace, Ms. Butler stated staff requests that the Commission recommend approval of Conditional Privilege No. 74, and prior to consideration by City Council, staff can contact Mill Point residents. She stated Mill Point was not notified, but all adjacent property owners to the site were notified. She stated Mr. Bland has been at the restaurant for approximately 15 months, and staff has received no complaints either from citizens, the Police Department, or ABC Board regarding its operation. A structure has been built over the outer deck to deflect or detain a lot of the noise that had previously occurred at the restaurant.

Commissioner Pilgrim stated in the 15 months that the restaurant has been opened, it has actually become a justifiable and proper location for monthly socials for Mill Point. He stated the request was advertised in the paper, and if there are any citizen concerns regarding the request, they would certainly be here. He does not believe staff will hear anything from Mill Point.

Mr. Dan Seachord, representing Downtown Hampton Partnership, 765 Settlers Landing Road, stated Mr. Bland offers great business to Downtown Hampton. He has not heard of any complaints about the restaurant, and has received a Downtown of the Year Award because of the business he is offering. He recalled that Mr. Bland worked with the Downtown Hampton Partnership regarding the sounds. He stated Mr. Bland has been very responsive to the downtown neighborhood, not only the immediate neighborhood, but because he does live in that area, many of the people who would complain are his neighbors. He stated on behalf of the Downtown Hampton Partnership, he supports the request.

After discussion, the Commission approved the following resolution:

WHEREAS: The Hampton Planning Commission has before it this day, an application by Carlyle Bland at Marker 20 Restaurant, to obtain an amendment to the conditions governing the Conditional Privilege No. 64 for live entertainment in conjunction with a restaurant located at 21 East Queens Way; and

WHEREAS: A restaurant is a permitted use under the current zoning classification Special-Public Interest District-Old Hampton Business (SPI-OH/Business) and this location has offered live entertainment since 1991 under several different operators and in conjunction with several different restaurants; and

WHEREAS: This proposal is to extend the operating hours for live entertainment until 1:30 am Wednesday through Saturday and until 10 pm on Sunday; and

WHEREAS: The Alcohol Beverage Commission Board (ABC), Police Division and Codes/Compliance offered favorable comments regarding the operation of live entertainment at Marker 20; and

WHEREAS: City Council, at its January 14, 2004 meeting approved Mr. Bland's request to renew the provision for live entertainment at Marker 20; and

WHEREAS: While there was no opposition from the public, the Commission directed staff to notify the residents of Mill Point of the application; and

WHEREAS: The requested use is a compatible neighbor to the existing uses in Old Hampton and it is consistent with adopted public policy for Old Hampton that supports a vibrant downtown with retail and restaurants; and

NOW, THEREFORE, on a motion by Commissioner Randy Gilliland and seconded by Commissioner Perry Pilgrim;

BE IT RESOLVED that the Hampton Planning Commission respectfully recommends to the Honorable Hampton City Council that Conditional Privilege No. 74 be approved with conditions.

A roll call vote on the motion resulted as follows:

AYES:	Smith, Pilgrim, Glass, Wallace, Gilliland, Johns
NAYS:	None
ABST:	None
ABSENT:	Heath

E. **Zoning Ordinance Amendment**

Mr. O'Neill read the next public hearing item notice.

Zoning Ordinance Amendment to amend and re-enact Chapter 2, "Definitions", of the Zoning Ordinance of the City of Hampton, Virginia, by adding a definition of "Freight Containers" to Section 2-48.1.1 "Outdoor Material Storage".

Mr. Steve Shapiro, Director of Codes Compliance, presented the staff report, a copy of which is attached hereto and made a part hereof. He asked Planning Commission to approve the amendment and forward the recommendation to City Council.

After discussion, the Commission approved the following resolution:

WHEREAS: This is a request by the City of Hampton to amend and re-enact Chapter 2, "Definitions", of the Zoning Ordinance of the City of Hampton, Virginia, by adding a definition of "Freight Containers" to Section 2-48.1.1 "Outdoor Material Storage"; and

WHEREAS: This change is necessary due to the proliferation of storage containers in our region, with no way for the cities to regulate which zoning districts they are placed in; and

WHEREAS: It is the city's desire to treat these containers as we would outdoor material storage requiring landscaping and specifying certain setbacks; and

WHEREAS: To accommodate the concerns of local business, we are adding language to our original proposal which would allow containers to be stacked vertically three containers high, provided that they are "blocked."

NOW, THEREFORE, on a motion by Commissioner Randy Gilliland and seconded by Commissioner Katherine Glass,

BE IT RESOLVED that the Hampton Planning Commission does hereby recommend approval of this ordinance to City Council.

A roll call vote on the motion resulted as follows:

AYES:	Smith, Pilgrim, Glass, Wallace, Gilliland, Johns
NAYS:	None
ABST:	None
ABSENT:	Heath

A motion was made by Commissioner Katherine K. Glass, and seconded by Commissioner Randy Gilliland to extend the meeting beyond 5:00 p.m. A vote on the motion resulted as follows:

AYES:	Smith, Pilgrim, Glass, Wallace, Gilliland, Johns
NAYS:	None
ABST:	None
ABSENT:	Heath

F. **Zoning Ordinance Amendment**

Mr. O'Neill read the next public hearing item notice.

Zoning Ordinance Amendment by the City of Hampton to amend and re-enact Sections 3-1(2)(13); 3.2-2(3); 3.1-2(3); 3.3-2(3); 3.4-2(3); 4-1(3); and 5-1(9) to delete Residential-Open Space subdivisions as a permitted use, and to delete in its entirety Chapter 20, Article IV "Use Permits for Residential-Open Space (R-OS) Variable Density Subdivisions" (Sections 20.27 through 20-41) in order to maintain compliance with Virginia State Code.

Ms. Caroline Butler, Chief Planner, presented the staff report, a copy of which is attached hereto and made a part hereof. She stated staff respectfully recommends the Planning Commission to forward to City Council approval of the amendment.

After discussion, the Commission approved the following resolution:

WHEREAS: The City of Hampton proposes to delete Chapter 20, Article IV of the Zoning Ordinance (Use Permits for Residential-Open Space Variable Density Subdivisions) and to amend other pertinent sections relative to R-OS Use Permits; and

WHEREAS: Effective July 1, 2004, localities that allow cluster developments must permit them by right unless the proposal includes an increase in density; and

WHEREAS: Because Hampton's cluster development provision does not provide for increases in density, any R-OS subdivisions would be allowed by right after July 1, 2004; and

WHEREAS: Deletion of the R-OS chapter will not impact any existing R-OS Subdivisions, and any proposed mixed-use developments can be accommodated by other means until a revised cluster development chapter is adopted; and

WHEREAS: No one from the public spoke on this item at the public hearing.

NOW, THEREFORE: On a motion by Commissioner Randy Gilliland and seconded by Commissioner Perry T. Pilgrim,

BE IT RESOLVED that the Hampton Planning Commission recommends to the Honorable City Council approval of this Zoning Ordinance amendment.

A roll call vote on the motion resulted as follows:

AYES:	Smith, Pilgrim, Glass, Wallace, Gilliland, Johns
NAYS:	None
ABST:	None
ABSENT:	Heath

Mr. Greg Goetz, Senior City Planner, presented a staff report on the Zoning Ordinance Amendment of the SPI-Chesapeake Bay Preservation District and The City Codes for Subdivisions, Stormwater Management, Site Plans, and Erosion and Sediment Control, a copy of which is attached hereto and made a part hereof.

G. **Zoning Ordinance Amendment**

Zoning Ordinance Amendment by the City of Hampton **to amend Chapter 17.3 Article X (SPI-Chesapeake Bay Preservation District)** to clarify the purpose and intent of the Article by correcting references to statutory authority (Section 17.3-60); clarify the limitations and purpose of the SPI-CBPD map (Section 17.3-61 & 63); revise definitions of the terms *Chesapeake Bay Preservation District*, *non-tidal wetland*, *plan of development*, *redevelopment*, *Resource Management Area*, *Resource Protection Area*, and *water dependant facility*; define the following terms, *environmental site assessment* and *public road*; delete the term *tributary stream* (Section 17.3-62); reorganize sections of the Article by moving the RPA Regulations (currently Section 17.3-66) into Section 17.3-64 (currently General Performance Standards for Development and Redevelopment) and rename Section 17.3-64 "Regulations for Development and Redevelopment. Section 17.3-64, as revised, is expanded and organized to address permitted uses in the SPI-CBPD and restrictions on permitted uses in the SPI-CBPD and in the Resource Protection Area (RPA). New standards and substantive changes to existing standards throughout the Article include: agricultural uses within the RPA to conduct soil and water quality conservation assessments; reestablishment of RPA buffer vegetation; permitted RPA buffer encroachment for agricultural activities; provisions for non-exempt roads and driveways; provisions for development or redevelopment of lots or parcels for principal structures and necessary utilities when there is the loss of a buildable area; contents of construction plans to delineate buildable area; and, all projects in the RPA to submit a Water Quality Impact Assessment and comply with Plan of Development requirements. The proposed revisions delete provisions for RPA buffer width reductions; repeals Section 17.3-66.1 (Tidal Wetlands Permits) and exemptions for fences in the RPA; enacts exemptions for public utilities, railroads, public roads and facilities, and municipal or regional service authority sewer, natural gas, underground telecommunication and cable television lines; revises administrative review criteria for buffer encroachments proposed on lots or parcels recorded prior to adoption of the proposed ordinance amendment; and, enacts requirements for public hearings and the collection of fees when considering requests for exceptions to buffer area requirements and the requirements for permitted buffer encroachments. The proposed changes are in response to the December 10, 2001 amendments to 9 VAC 10-20-10 et seq. (Chesapeake Bay Preservation Area Designation and Management Regulations).

After discussion the Commission approved the following resolution:

WHEREAS: The City of Hampton proposes to amend and re-enact Chapter 17.3, Article X (Special Public Interest - Chesapeake Bay

Preservation District) to bring it into compliance with Parts I-IV of Virginia's Chesapeake Bay Preservation Area Designation and Management Regulations; and,

WHEREAS: The Chesapeake Bay Local Assistance Board (CBLAB) adopted amendments to the Chesapeake Bay Preservation Area Designation and Management Regulations, with an effective date of December 31, 2003; and,

WHEREAS: CBLAB subsequently established May 15, 2004 as the final deadline for the City of Hampton to make the required changes to its codes and ordinances to achieve consistency with their regulations; and,

WHEREAS: Virginia's revised Chesapeake Bay Preservation Area Designation and Management Regulations impose more stringent Resource Protection Area Buffer preservation and protection standards on new and existing lots, refine definitions of certain terms, and change governmental functions regarding development review and administration of the ordinance including but not limited to enactment of provisions for public hearings and collection of fees for projects that request exceptions to buffer area requirements or the requirements for permitted buffer encroachments; and,

WHEREAS: CBLAB approved amendments to Virginia's Chesapeake Bay Preservation Area Designation and Management Regulations revise the criteria for evaluating stormwater management performance, revise the performance criteria for agricultural uses in the district, and clarify permissible exemptions; and,

WHEREAS: Chesapeake Bay Local Assistance Department (CBLAD) staff communicated in writing on April 9, 2004 that the proposed Zoning Ordinance amendment presented to the Commission will be deemed consistent with the Chesapeake Bay Preservation Area Designation and Management Regulations by CBLAD staff subject to compliance with specific text revisions to the proposed ordinance as described in the letter dated April 9, 2004 and final review by CBLAD staff following adoption of the proposed ordinance by the City of Hampton; and,

WHEREAS: In response to a question by the Commission, staff stated that there are approximately five thousand developed parcels and one thousand vacant parcels in Hampton that will be affected by these new regulations; and,

WHEREAS: The Commission commented that adoption of the new regulations will result in a more complicated and expensive process for property owners who propose development within the SPI-CBPD, as well as an increase in staff time for processing these requests; and,

WHEREAS: Commissioners noted that the mandatory adoption of these regulations will have considerable impact on Hampton's high value housing policies, which target waterfront development; and,

WHEREAS: Staff informed the Commission that lands within the City of Hampton not currently designated as Intensely Developed Area may qualify for an Intensely Developed Area designation.

NOW, THEREFORE: On a motion by Commissioner Randy Gilliland and seconded by Commissioner George E. Wallace,

BE IT RESOLVED that the Hampton Planning Commission does recommend to the Honorable City Council approval of this Zoning Ordinance amendment including the revisions recommended by the Chesapeake Bay Local Assistance Department staff review comments dated April 9, 2004.

A roll call vote on the motion resulted as follows:

AYES:	Smith, Pilgrim, Glass, Wallace, Gilliland, Johns
NAYS:	None
ABST:	None
ABSENT:	Heath

H. **City Code Amendment, Chapter 35, Subdivisions**

City Code Amendment, Chapter 35, Subdivisions, by the City of Hampton to delete the term *tributary stream* and revise definitions for the terms, *Chesapeake Bay Preservation District*, *non-tidal wetland*, *redevelopment*, *Resource Management Area*, *Resource Protection Area*, and *water dependant facility* (Section 35-1); to revise the requirements for content of preliminary plats, final subdivision or property plats and plans of construction to exclude identification of tributary streams and to include water bodies with perennial flow, notation regarding use and development restrictions, and the boundary of all SPI-CBPD components (Sections 35-23, 35-45 and 35-118); to empower the Zoning Administrator to evaluate the developability of parcels to be recorded through provisions for review and approval of property splits (Section 35-36); to expand the types of improvements and development allowed in the Resource Protection Area to include those permitted pursuant to the Hampton City Zoning Ordinance, and to delete language regarding the purpose of the 100 foot buffer area and the provisions and procedures for buffer area width reductions (Section 35-86). The proposed changes are in response to the December 10, 2001 amendments to 9 VAC 10-20-10 et seq. (Chesapeake Bay Preservation Area Designation and Management Regulations) and serve to ensure consistency with proposed amendments to Chapter 17.3 Article X (SPI-Chesapeake Bay Preservation District) of the Zoning Ordinance.

After discussion the Commission approved the following resolution:

WHEREAS: The City of Hampton proposes to amend and re-enact Chapter 35 (Subdivisions) of the City Code to bring it into compliance with Parts I-IV of Virginia's Chesapeake Bay Preservation Area Designation and Management Regulations; and,

WHEREAS: The Chesapeake Bay Local Assistance Board (CBLAB) adopted amendments to the Chesapeake Bay Preservation Area Designation and Management Regulations, with an effective date of December 31, 2003; and,

WHEREAS: CBLAB subsequently established May 15, 2004 as the final deadline for the City of Hampton to make the required changes to its codes and ordinances to achieve consistency with state regulations; and,

WHEREAS: CBLAB-mandated changes affect Hampton's minimum content requirements for preliminary and final plats of a subdivision and property splits, criteria for evaluating property splits, criteria for development in the Resource Protection Area, minimum information content of the improvement plans for construction of subdivision infrastructure, and the definition of terms used in the City Code; and,

WHEREAS: In response to a question by the Commission, staff stated that there are approximately five thousand developed parcels and one thousand vacant parcels in Hampton that will be affected by these new regulations; and,

WHEREAS: The Commission commented that adoption of the new regulations will result in a more complicated and expensive process for property owners who propose development within the SPI-CBPD District, as well as an increase in staff time for processing these requests; and,

WHEREAS: Commissioners noted that the mandatory adoption of these regulations will have considerable impact on Hampton's high value housing policies, which target waterfront development; and,

WHEREAS: Staff informed the Commission that land within the City of Hampton not currently designated as Intensely Developed Area may qualify for an Intensely Developed Area designation.

NOW, THEREFORE: On a motion by Commissioner George Wallace and seconded by Commissioner Katherine K. Glass,

BE IT RESOLVED that the Hampton Planning Commission does recommend to the Honorable City Council approval of this City Code amendment. A roll call vote on the motion resulted as follows:

AYES: Smith, Pilgrim, Glass, Wallace, Gilliland, Johns
NAYS: None
ABST: None
ABSENT: Heath

I. **CITY CODE AMENDMENT, CHAPTER 9, ARTICLE IV SITE PLANS**

City Code Amendment, Chapter 9, Article IV Site Plans, by the City of Hampton to delete the term *tributary stream* and revise definitions for the terms, *Chesapeake Bay Preservation District*, *non-tidal wetland*, *redevelopment*, *Resource Management Area*, *Resource Protection Area*, and *water dependant facility* (Section 9-131); revise the requirements for content of a preliminary plan to exclude identification of tributary streams and include identification of water bodies with perennial flow and buildable areas for projects within the SPI-CBPD (Section 9-142); expand the types of improvements and development allowed in the Resource Protection Area to include those permitted pursuant to the Hampton City Zoning Ordinance, and to delete language regarding the purpose of the 100 foot buffer area and the provisions and procedures for buffer area width reductions (Section 9-167.1). The proposed changes are in response to the December 10, 2001 amendments to 9 VAC 10-20-10 et seq. (Chesapeake Bay Preservation Area Designation and Management Regulations) and serve to ensure consistency with proposed amendments to Chapter 17.3 Article X (SPI-Chesapeake Bay Preservation District) of the Zoning Ordinance

After discussion the Commission approved the following resolution:

WHEREAS: The City of Hampton proposes to amend and re-enact Chapter 9, Article IV (Site Plans) of the City Code to bring it into compliance with Parts I-IV of Virginia's Chesapeake Bay Preservation Area Designation and Management Regulations; and,

WHEREAS: The Chesapeake Bay Local Assistance Board (CBLAB) adopted amendments to the Chesapeake Bay Preservation Area Designation and Management Regulations, with an effective date of December 31, 2003; and,

WHEREAS: CBLAB subsequently established May 15, 2004 as the final deadline for the City of Hampton to make the required changes to its codes and ordinances to achieve consistency with their regulations; and,

WHEREAS: CBLAB-mandated changes affect Hampton's minimum content requirements for preliminary and final plans; definition of terms used in the City Code; and criteria for development in the Resource Protection Area / Buffer Area; and

WHEREAS: In response to a question by the Commission, staff stated that there are approximately five thousand developed parcels and one

thousand vacant parcels in Hampton that will be affected by these new regulations; and

WHEREAS: The Commission commented that adoption of the new regulations will result in a more complicated and expensive process for property owners who propose development within the SPI-CBPD District, as well as an increase in staff time for processing these requests; and

WHEREAS: Commissioners noted that the mandatory adoption of these regulations will have considerable impact on Hampton's high value housing policies, which target waterfront development.

NOW, THEREFORE: On a motion by Commissioner Randy Gilliland and seconded by Commissioner Katherine K. Glass,

BE IT RESOLVED that the Hampton Planning Commission does recommend to the Honorable City Council approval of this City Code amendment.

A roll call vote on the motion resulted as follows:

AYES:	Smith, Pilgrim, Glass, Wallace, Gilliland, Johns
NAYS:	None
ABST:	None
ABSENT:	Heath

J. **CITY CODE AMENDMENT, CHAPTER 33.1 STORMWATER MANAGEMENT**

Mr. O'Neill read the next public hearing item notice.

City Code Amendment, Chapter 33.1, Stormwater Management, by the City of Hampton to revise definitions for the terms, *Chesapeake Bay Preservation District, non-tidal wetland, redevelopment, Resource Management Area, and Resource Protection Area* (Section 33.1-4); revise the criteria for evaluating Water Quality Impact Assessments to require verification of compliance with SPI-CBPD RPA regulations and eliminate language that implies the RPA buffer may be reduced in width [Section 33.1-7(f)]; and to delete the provisions for RPA buffer width reductions [Section 33.1-9(b)(23)]. The proposed changes are in response to the December 10, 2001 amendments to 9 VAC 10-20-10 et seq. (Chesapeake Bay Preservation Area Designation and Management Regulations) and serve to ensure consistency with proposed amendments to Chapter 17.3, Article X (SPI-Chesapeake Bay Preservation District) of the Zoning Ordinance.

After discussion the Commission approved the following resolution:

WHEREAS: The City of Hampton proposes to amend and re-enact Chapter 33.1 (Stormwater Management) of the City Code to bring it into compliance with Parts I-IV of Virginia's Chesapeake Bay Preservation Area Designation and Management Regulations; and,

WHEREAS: The Chesapeake Bay Local Assistance Board (CBLAB) adopted amendments to the Chesapeake Bay Preservation Area Designation and Management Regulations, with an effective date of December 31, 2003; and,

WHEREAS: CBLAB subsequently established May 15, 2004 as the final deadline for the City of Hampton to make the required changes to its codes and ordinances to achieve consistency with state regulations; and,

WHEREAS: CBLAB-mandated changes revise the definition of certain terms used in the Code, affect Hampton's stormwater management performance criteria, and impose the requirement for all projects within the Resource Protection Area to prepare and submit water quality impact assessments; and,

WHEREAS: Chesapeake Bay Local Assistance Department (CBLAD) staff communicated in writing on April 9, 2004 that the proposed City Code amendment presented to the Commission will be deemed consistent with the Chesapeake Bay Preservation Area Designation and Management Regulations by CBLAD staff subject to compliance with specific text revisions to the proposed code amendment as described in the letter dated April 9, 2004 and subject to final review by CBLAD staff following adoption of the proposed City Code amendment by the City of Hampton; and,

WHEREAS: In response to a question by the Commission, staff stated that there are approximately five thousand developed parcels and one thousand vacant parcels in Hampton that will be affected by these new regulations; and,

WHEREAS: The Commission commented that adoption of the new regulations will result in a more complicated and expensive process for property owners who propose improvements on lots within the SPI-CBPD Resource Protection Area, as well as an increase in staff time for processing these requests; and,

WHEREAS: Commissioners noted that the mandatory adoption of these regulations will have considerable impact on Hampton's high value housing policies, which target waterfront development.

NOW, THEREFORE: On a motion by Commissioner Katherine K. Glass and seconded by Commissioner Randy Gilliland,

BE IT RESOLVED that the Hampton Planning Commission does recommend to the Honorable City Council approval of this City Code amendment including the revisions recommended by the Chesapeake Bay Local Assistance Department staff review comments dated April 9, 2004.

A roll call vote on the motion resulted as follows:

AYES: Smith, Pilgrim, Glass, Wallace, Gilliland, Johns
NAYS: None
ABST: None
ABSENT: Heath

K. **CITY CODE AMENDMENT, CHAPTER 13, ARTICLE IV, EROSION AND SEDIMENT CONTROL**

City Code Amendment, Chapter 13, Article IV, Erosion and Sediment Control, by the City of Hampton to revise the definition of the term *Chesapeake Bay Preservation District*. The proposed change is in response to the December 10, 2001 amendments to 9 VAC 10-20-10 et seq. (Chesapeake Bay Preservation Area Designation and Management Regulations) and serves to provide consistency with a proposed amendment to Chapter 17.3, Article X (SPI-Chesapeake Bay Preservation District) of the Zoning Ordinance.

After discussion the Commission approved the following resolution:

WHEREAS: The City of Hampton proposes to amend and re-enact Chapter 13, Article V (Erosion and Sediment Controls) of the City Code to bring it into compliance with Parts I-IV of Virginia's Chesapeake Bay Preservation Area Designation and Management Regulations; and,

WHEREAS: The Chesapeake Bay Local Assistance Board (CBLAB) adopted amendments to the Chesapeake Bay Preservation Area Designation and Management Regulations, with an effective date of December 31, 2003; and,

WHEREAS: CBLAB subsequently established May 15, 2004 as the final deadline for the City of Hampton to make the required changes to its codes and ordinances to achieve consistency with state regulations; and,

WHEREAS: CBLAB-mandated changes affect Hampton's written definition of the term "Chesapeake Bay Preservation District".

NOW, THEREFORE: On a motion by Commissioner Randy Gilliland and seconded by Commissioner Katherine K. Glass,

BE IT RESOLVED that the Hampton Planning Commission does recommend to the Honorable City Council approval of this City Code amendment.

A roll call vote on the motion resulted as follows:

AYES: Smith, Pilgrim, Glass, Wallace, Gilliland, Johns
NAYS: None
ABST: None
ABSENT: Heath

ITEM V. PLANNING DIRECTOR'S REPORT

There were no items by the Planning Director.

ITEM VI. ITEMS BY THE PUBLIC

There were no items by the public.

ITEM VII. MATTERS BY THE COMMISSION

There were no matters by the Commission.

The Planning Commission public hearing portion of the meeting was concluded. The Planning Commission convened in the Lawson Conference for the work session on the Hampton Community Plan.

ITEM VIII. HAMPTON COMMUNITY PLAN

Mr. Keith Cannady, Chief Planner, gave a brief overview of the Housing and Neighborhood and Transportation element of the Hampton Community Plan.

Ms. Irayda Ruiz discussed the *Housing and Neighborhoods* first draft and Mr. Donald Whipple discussed the *Transportation* first draft of the Hampton Community Plan, a copy of which is attached hereto and made a part hereof.

ITEM IX. ADJOURNMENT

There being no additional items to come before the Commission, the meeting adjourned at 8:05 p.m.

Respectfully submitted,

Terry P. O'Neill
Secretary to Commission

APPROVED BY:

Harold O. Johns
Chairman